Amendment after Final Application No. 10/629,806 Attorney Docket No. 030923

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REMARKS

Claims 1-9 and 12-21 are pending in this application, of which claim 13 has been amended. No new claims have been added.

(1) Claims 1-9, 12 and 14-21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ishibashi et al. (USP 6,579,657 B1) in view of Vasta (USP 4,572,870).

In response to the Applicant's previous arguments that the claimed invention shows unexpected results, the Examiner states that the comparison was not commensurate in scope with the broadest claim, because thickening materials A-F include pure water and isopropyl alcohol, and also a surfactant. The Examiner also states that thickening material D further includes γ -butyrolactone, and that thickening material E further includes catechin.

(i) However, as shown in Table 1 at page 38, all of the thickening materials A-F include pure water and isopropyl alcohol (page 38, lines 8-9). A surfactant (TN-80) is included in thickening materials A-C, E and F, but is not included in thickening material D (Table 1). The nitrogen-containing compound is included in thickening materials A-E but is not included in thickening materials F. As shown in Table 3, space pattern could be formed in thickening materials A-E, but space pattern could not be formed in thickening material F.

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Comparing thickening materials A-E with thickening material F, the unexpected results,

that is, formation of space pattern, are found to come from inclusion of the nitrogen-containing

compound. These results do not show that the unexpected results come from further inclusion

of isopropyl alcohol or a surfactant.

Comparing thickening materials A-C with thickening material F, the unexpected results,

that is, formation of space pattern, are found to come from inclusion of the nitrogen-containing

compound. These results do not show that the unexpected results come from further inclusion of

γ-butyrolactone or catechin.

(ii) In addition, Applicants herewith file a declaration under 37C.F.R§1.132 showing

that isopropyl alcohol does not affect the thickening effect of the present invention.

(iii) Thus, since the nitrogen-containing compound is recited in the claims, the

comparison is commensurate in scope with the claims covering the embodiments showing the

unexpected result of the formation of the space pattern. It is unreasonable to recite additional

components which substantially do not affect the unexpected results of the present invention.

(iv) Neither Ishibashi et al. nor Vasta suggests or teaches the significance of the

formation of space pattern, by inclusion of the nitrogen-containing compound. As argued

previously, the presence of a property not possessed by the prior art is evidence of non-

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independent claims 1, 16, 17, 20 and 21 are not obvious over the combination of the references.

Reconsideration of the rejection is respectfully requested.

Claim 13 has been amended into independent form including all the limitations of the (2)

base claim and any intervening claims. Thus, claim 13 should be allowed.

In view of the aforementioned amendments and accompanying remarks, Applicants (3)

submit that that the claims, as herein amended, are in condition for allowance. Applicants

request such action at an early date. If the Examiner believes that this application is not now in

condition for allowance, the Examiner is requested to contact Applicants' undersigned

representative to arrange for an interview to expedite this case. If this paper is not timely filed,

Applicants respectfully petition for an appropriate extension of time. The fees for such an

extension or any other fees that may be due with respect to this paper may be charged to Deposit

Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP

Limited Recognition

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SY/mt

Attachment:

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Amendment Transmittal

Petition for Extension of Time

Declaration under 37 CFR 1.132